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Representative Plaintiffs*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

GREY FOX, LLC, et al.,

Plaintiffs,

v.

PLAINS ALL AMERICAN PIPELINE,  
L.P., et al.,

Defendants.

Case No. 2:16-cv-03157-PSG-JEM

**DECLARATION OF A. BARRY  
CAPPELLO IN SUPPORT OF  
PLAINTIFF GREY FOX, LLC'S  
EX PARTE APPLICATION FOR  
CONTINUANCE OF TRIAL DATE**

1 I, A. Barry Cappello, declare as follows:

2 1. I am an attorney licensed to practice before the United States District Court,  
3 Central District of California. I am a partner at the law firm of Cappello & Noel LLP,  
4 court-appointed Class Counsel and Lead Trial Counsel in this matter. I have personal  
5 knowledge of the facts set forth in this declaration, and, if called as a witness, I could  
6 testify competently to the matters set forth herein.

7 2. Plaintiff's counsel conferred in good faith with counsel for Plains regarding  
8 the relief this *ex parte* application seeks: a continuance of the trial date by one month, to  
9 any convenient date after July 8, 2024. That conferral took place by video meeting on  
10 April 11, 2024, and by email on April 12, 2024.

11 3. By email dated Friday, April 12, 2024, counsel for Plains stated that it would  
12 not stipulate to continuing the trial date and that it was "prepared to go forward on June 6  
13 on whatever claims remain in the case."

14 4. Plaintiff has thus sought to resolve this conflict by asking counsel for Plains  
15 to stipulate to continue the trial. Counsel for Plains did not agree, which necessitated  
16 Plaintiff's *ex parte* application to continue the trial date.

17 5. Trial in this matter is set to begin on June 6, 2024, and is expected to last  
18 seven days.

19 6. *Ex parte* relief to continue the trial date is necessary because the relief  
20 Plaintiff seeks will be irreparably prejudiced if this request is heard through a regularly  
21 noticed motion, because by that time nearly all pretrial work will have been completed  
22 and the parties will be preparing for the final pretrial conference on May 24, 2024.

23 7. On Monday, April 15, 2024, Plaintiff's counsel informed counsel for Plains  
24 that Plaintiff intended to file an *ex parte* application requesting a continuance of the trial  
25 date and asked whether Plains would oppose the relief sought.  
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1           8. By email dated April 16, 2024, counsel for Plains stated that it would oppose  
2 the *ex parte* application, without providing a basis for its opposition.

3  
4 I declare under penalty of perjury that the foregoing is true and correct.

5 Executed this 16th day of April 2024, at Santa Barbara, California.

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7 /s/ A. Barry Cappello

8 A. Barry Cappello  
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